

INTER-OFFICE MEMORANDUM

Office of Accounts and Control

TO: Chief Executive Officers
Departments and Agencies **DATE:** October 3, 2000

FROM: Robert L. Carl Jr., Ph.D., Director of Administration

SUBJECT: MOTOR VEHICLES OWNED BY A GOVERNMENTAL BODY

Chapter 42-11.3 of the Rhode Island General Laws regarding motor vehicles owned by a governmental body has been amended by Chapter 100 of the Rhode Island Public Laws, signed by Governor Almond on July 6, 2000. I have attached the Department of Administration's policy which is intended to insure that the use of state-owned vehicles by employees complies with this law.

One technical amendment to this state law adopts the Internal Revenue Service definition of law enforcement officer.

The other significant amendment authorizes a department director and the director of administration to approve the use of a state-owned vehicle for commuting. It also exempts employees who commute in certain types of vehicles or who commute in state-owned vehicles for certain types of purposes to be exempt from reimbursing the state for their commuting use. The vehicles/purposes exempt from reimbursing the state for commuting are as follows:

- General officers
- Department directors
- Law enforcement officers
- Emergency response vehicles
- Vehicles which serve as an employee's primary "office"
- Vehicles driven directly from an employee's residence to a temporary/seasonal work site.
- Vehicles to be used on a per trip basis before and/or after an employee's regular work hours
- Specially equipped vehicles to be used by an employee after their regular work hours

The Division of Central Services within the Department of Administration will be forwarding a separate communication to you including updated regulations regarding the use of state-owned vehicles.

POLICY REGARDING COMMUTING IN STATE-OWNED VEHICLES

October 1, 2000

I. Purpose

This policy is intended to ensure that the use of state-owned vehicles by employees complies with applicable laws and regulations, in particular Chapter 42-11.3 of the Rhode Island General Laws as amended and regulations promulgated pursuant thereto. The policy addresses commuting use of state vehicles; criteria for assignment of vehicles for commuting; employee mileage reimbursement requirements; and exemptions from the mileage reimbursement requirements.

This policy is effective immediately and replaces all inconsistent policies. It is subject to revision as necessary by the Department of Administration. Finally, this policy is intended solely as guidance for employees. It is not intended to create a right, benefit, or entitlement.

II. Definitions

"Commuting" means driving a motor vehicle owned by a government body to and from an employee's work place and residence.

"Commuting miles" are miles that an employee drives between the employee's home and his/her work place.

"Department Director" means the head of Department enumerated in Section 42-6-2 of the General Laws.

"Employee" means an individual who works for a governmental body not less than thirty-five (35) hours a week.

"General officer" shall include the governor, the lieutenant governor, the attorney general, the secretary of state and the general treasurer.

"Governmental body" means any Department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, without limitation, the board of governors for higher education and board of regents-elementary and secondary education or any other governmental body defined in the RI General Laws.

"Law enforcement officer" means an individual: 1) who is employed on a full-time basis by a governmental body that is responsible for the prevention or investigation of crime involving injury to persons or property (including the apprehension or detention of persons for such crimes); 2) who is authorized by law to carry firearms, execute search warrants and to make arrests (other than merely a citizen's arrest); and 3) who regularly carries firearms (except when it is not possible to do so because of the requirement of undercover work). The term "law enforcement officer" shall include an arson investigator, if the investigator otherwise meets these requirements.

"Own" means control and the intent to control and shall include any type of arrangement, including by way of illustration, and not by limitation, a lease arrangement, whereby an employee of a governmental body is supplied principal and exclusive use of a motor vehicle by his or her employer.

"State-Owned Vehicle" is a motor vehicle owned by a governmental body.

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“Work place” is defined as the place that is described in a Department’s database/record where an employee regularly performs his or her normal office functions or reports for duty at the beginning of a shift.

III. General Rule

A state-owned, leased or rented motor vehicle may only be used for official state business of state agencies.

IV. Assignment of a motor vehicle to an employee

Chapter 42-11.3 provides certain employees exemptions from obtaining prior written approval for commuting use of a state vehicle, as follows:

- The motor vehicle is used by a statewide elected general officer (42-11.3-4{B}), and
- The Director of a state Department (42-11.3-4{B}) uses the motor vehicle.

For all other classes of employees, the employee’s Director or appointing authority must approve the assignment of a state-owned vehicle to an employee.

Notwithstanding the above, no employee may commute in a state owned vehicle, unless the employee’s Director or appointing authority and the Director of Administration have given prior written approval. Any such approval expires on December 31st of each year; the employee’s Director, or appointing authority, and the Director of Administration in writing must approve any extension.

Before any such approval for commuting in a state owned vehicle might be given, at least one of the following conditions must exist. as referred to in the Rhode Island General Laws most recently enacted by the General Assembly on July 6, 2000:

1. The motor vehicle is used by law enforcement officers {as defined in Section 42-11.3-1(4)} and for whom written approval by the employees’ appointing authority and the Director of Administration has been given.
2. Vehicles assigned to employees who are on emergency response status; the need for these employees to respond to emergencies in an assigned vehicle must be clearly established and must be clearly beneficial to the state.(42-11.3-4(E)[1](b))
3. Vehicles assigned to employees who report to a work site in their assigned vehicle outside of their permanent duty station for at least 80% of their scheduled workweek. (42-11.3-4{E}[1](c)).
4. Vehicles assigned to employees in situations in which it is clearly more beneficial to the state if the employee uses an assigned vehicle to travel from his/her residence to a temporary or seasonal work place. (42-11.3-4(E)[1](d)). (SEE NOTE BELOW.)

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5. The vehicle is needed on a per trip basis and the employee is required to use the vehicle before or after regular working hours.(42-11.3-4{E}[1](e)). (SEE NOTE BELOW.)
6. Specially equipped vehicles assigned to employees who are required to work with the vehicle after their regular working hours. (42-11.3-4(E)1](f)).
7. A situation exists whereby it is established that an employee's commuting use of a state-owned vehicle is clearly beneficial to the state. (42-11.3-4(E)2))

NOTE: Conditions 4 and 5 above require the approval of the employee's Director or appointing authority, but not the approval of the Director of Administration, if the vehicle assignment results in the employee commuting for less than twenty (20) business days during any calendar year.

V. Reimbursement for Employee Commuting

Reimbursement to the State

Section 42-11.3-4 of the General Laws requires that employees who use state-owned vehicles for commuting must reimburse the state for such commuting usage, with certain enumerated exceptions. Employees who have received approval to use an assigned vehicle for commuting purposes pursuant to items 1 through 6, as described in Section IV above, are not required to reimburse the state for such use.

Unless exempt under items 1 through 6 in Section IV above or otherwise exempt by state law, all employees using a state vehicle for commuting purposes are required to reimburse the State on a monthly basis at a mileage rate determined by the State Controller. In order to provide for this reimbursement, employees should forward a check or money order, payable to the "General Treasurer-State of RI," to the business office of their agency no later than the tenth business day following the end of each calendar month. These reimbursements are to be deposited into each Department's miscellaneous revenue receipt account number.

Failure to reimburse the state for commuter miles on a monthly basis may result in the commuting authorization being withdrawn, as well as the imposition of other sanctions.

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Federal Tax Liability

Under IRS regulations, the imputed value of personal use of an employer-provided vehicle must be included in the employee's gross pay and is taxable for income and social security purposes. Employees are required to keep records substantiating the personal use of an employer-provided vehicle and the business use of the vehicle.

Even if an individual is exempt under state law from the state reimbursement requirement, the amount of benefit that is added to an employee's gross pay is still considered a taxable fringe benefit for IRS purposes. However, the reimbursement to the State can reduce the imputed value of personal use of the employer-provided vehicle by the amount of reimbursement.

The only class of employee exempt from reporting the commuting use of a state-owned vehicle as a taxable fringe benefit is that of law enforcement officer. The term law enforcement officer shall include an arson investigator if the investigator otherwise meets the statutory definition of a law enforcement officer.

The State Controller has outlined the procedures for reporting commuting usage in compliance with these regulations in the Department of Administration Procedural Handbook Section A-51.

VI. Rhode Island General Laws Reporting Requirements

1. Section 42-11.3-4 requires the appointing authority of each government body to report the name and address of each user of a state-owned vehicle who is subject to recall to the Director of Administration, the House Fiscal Advisor and the Senate Fiscal Advisor. Each Department Director shall do so by November 1st of each year. The following information shall be provided: assigned driver's name, driver's address and the state vehicle number. If none of the users are subject to recall, then no information need be reported.
 2. Section 42-11.3-5 requires that the Department of Administration prepares and submits to the General Assembly an annual report of usage of state-owned vehicles. This report is compiled by the Division of Central Services from forms that accompany those used by the State Controller to report taxable fringe benefit amounts. Appointing authorities are responsible for insuring that their employees complete and return the annual vehicle usage reports of the Division of Central Services, State Fleet Operations and of the State Controller.
 3. Section 42-11.3-4(A) requires that the Director of each Department obtain approval from the Director of Administration before a vehicle is approved for commuting purposes. When such approval is sought, the following information shall be provided: driver's name, state vehicle number, citation of the state law for which an exemption is requested, and the period of time requested for a temporary/seasonal exemption. SEE THE ATTACHED SAMPLE SPREADSHEET.
- VII. Review of Departmental Recommendations for Employees Commuting in State-Owned Vehicles

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The Director of each Department must submit the Department's recommendations to the Director of Administration by November 1st of each year for review and final approval. Recommendations must be based on the criteria set forth in Section IV above. While additional recommendations may be presented during the year, any approvals expire by December 31st of that year.

VIII. Window Decals

Section 42-11.3-3 of the Rhode Island General Laws requires that each vehicle owned by a governmental body display a decal on the rear window which states, "Please report misuse", and a telephone number established for such reporting. The Division of Central Services, Office of State Fleet Operations will provide such decals to Department Directors. Department Directors will be responsible for having the decals placed on the rear window of all vehicles under their control. Marked law enforcement vehicles are exempt from this requirement.

The telephone number will be established in the Office of State Fleet Operations (SFO). Complaints received via this telephone line will be reported to the Director of the Department to which the vehicle is assigned. The Director or his/her designee will be responsible for investigating the complaint and providing a written report indicating the results of the investigation and any action taken.

IX. Departmental Policies

Departments may find it advantageous to develop their own policies regarding use of vehicles. However, if any such policy is inconsistent with any provision of this policy, the Department of Administration policy shall take precedence. Departments that develop vehicle policies are requested to submit copies of their policies to the Director of the Department of Administration.

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(10/00)

NOTE: Please go to FORMS Link on our Website to retrieve Commuter Request Forms.